

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

YUCAIPA-CALIMESA JOINT UNIFIED
SCHOOL DISTRICT,

OAH Case No. 2015020259

YUCAIPA-CALIMESA JOINT UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015030471

ORDER GRANTING DISTRICT'S
MOTION TO CONSOLIDATE AND
MOTION TO CONTINUE

On January 30, 2015, Parent on behalf of Student filed a Request for Due Process Hearing in OAH case number 2015020259 (First Case), naming Yucaipa-Calimesa Joint Unified School District. On March 16, 2015, the First Case was continued and is presently scheduled for hearing on May 11 through 14, 2015, with a prehearing conference of 1:00 PM, May 1, 2015.

On March 4, 2015, District filed a Request for Due Process Hearing in OAH case number 2015030471 (Second Case), naming Student. The Second Case is scheduled for a prehearing conference of March 23, 2015, and a hearing of April 2, 2015.

On March 18, 2015, District filed a Motion to Consolidate the First Case with the Second Case. District further moved that its prehearing conference and hearing dates be continued to those scheduled in the First Case. Student has not filed an opposition to District's motions.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative

proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve a common question of law or fact. In the First Case, Student contends that District failed to provide a free appropriate public education by not offering appropriate services and placement at a November 2014 IEP, which utilized the findings and recommendations of the District's psycho-educational and speech-language assessments. Parent disagreed with both assessments.

In the Second Case, District states that Parent has requested independent psycho-educational and speech-language assessments, to be funded by District. The Second Case requires determination of the legal appropriateness of the District's assessments, to find whether District must fund independent educational evaluations. These same two assessments will be addressed in the First Case, requiring the same testimonial and documentary evidence to address the same issue.

Since the two cases involve common questions of fact and law, and consolidation furthers the interests of judicial economy, the motion is granted.

District's Motion to Continue and Assign Dates in Consolidated Matters

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

District requested that its prehearing conference and hearing dates be continued, stating that the First Case's prehearing conference and hearing dates would be acceptable. District has demonstrated good cause for the continuance and the request is granted. The Second Case's prehearing conference and hearing are continued to those scheduled in the First Case, and shall apply to these consolidated cases.

ORDER

1. District's Motion to Consolidate is granted.
2. District's Motion to Continue the prehearing conference and hearing dates, set in OAH Case Number 2015030471 (Second Case), is granted for good cause.
3. The prehearing conference of 1:00 PM, May 1, 2015, and hearing of May 11 through 14, 2015, presently scheduled in OAH Case Number 2015020259 (First Case), shall apply to these consolidated cases.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2015020259 (First Case).

5. All further pleadings in these consolidated cases shall be filed in the First Case.

DATE: March 20, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings